

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

PROGRESSIVE CASUALTY INSURANCE  
COMPANY as Subrogee of MARY BECKER,

No.

Plaintiff,

**COMPLAINT**

vs.

UNITED STATES OF AMERICA,

Defendant.

COMES NOW the Plaintiff, Progressive Casualty Insurance Company, as Subrogee of Mary Becker (hereinafter "Progressive"), by and through its attorneys of record, James M. Kristof, P.S., and for cause of action against Defendant, alleges as follows:

**I.**  
**PARTIES**

1. Progressive is a corporation licensed to do business in Washington State.
2. Defendant United States of America is subject to the jurisdiction of this court.

**COMPLAINT - 1**

Law Offices of  
James M. Kristof, P.S.  
Island Corporate Center, Suite 360  
7525 S.E. 24<sup>th</sup> Street  
Mercer Island, WA 98040  
Phone: 206-275-0770 Fax: 206-275-0880



13. As a result of the insurance issued to Mary Becker by Progressive, Progressive has paid the reasonable and necessary expenses and damages for the benefit of Mary Becker in the sum of FOUR THOUSAND ONE HUNDRED SIX DOLLARS AND EIGHTY SIX CENTS (\$4,106.86), less a \$250.00 deductible which Progressive is authorized to collect on behalf of its insured.

### **III. FIRST CAUSE OF ACTION NEGLIGENCE**

16. At all times material hereto, the USPS employee was acting with the scope of their employment with USPS, had a duty to operate the USPS vehicle with due care and in a lawful and reasonable manner.

18. As a result of the motor vehicle collision Mary Becker has incurred the damages referenced herein.

1           19. Defendant United States of America is indebted to Progressive for the amount  
2 claimed herein, plus such other sums as Progressive may continue to pay, if any, in an amount to  
3 be shown at trial.

4           20. Despite Progressive's demands, Defendant has failed to pay said amounts.

5  
6                                   **IV.**  
7                                   **SECOND CAUSE OF ACTION**  
8                                   **UNJUST ENRICHMENT**

9           21. Plaintiff re-alleges all prior paragraphs as if fully set forth herein.

10          22. Defendant United States of America has received the benefit of Progressive paying  
11 for damages for which Defendant United States of America is responsible.

12          23. Defendant United States of America has been unjustly enriched to the extent of the  
13 payments made by Progressive which total a net sum of FOUR THOUSAND ONE HUNDRED  
14 SIX DOLLARS AND EIGHTY SIX CENTS (\$4,106.86).

15          24. Defendant United States of America is therefore indebted to Progressive in the  
16 sum of FOUR THOUSAND ONE HUNDRED SIX DOLLARS AND EIGHTY SIX CENTS  
17 (\$4,106.86).

18                                   **V.**  
19                                   **VENUE**

20          The United States District Court for Western Washington is the proper court for bringing  
21 the above-entitled cause of action, as the USPS employee driving the USPS vehicle was  
22 employed by United States Postal Service, a branch and agent of Defendant United States of  
23 America, and was engaged in mail delivery in Pierce County, Washington.

24                                   **VI.**  
                                  **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

2. Plaintiff's costs; and
3. For such other relief as the court deems just and proper.

DATED this 31 day of August, 2020.  
JAMES M. KRISTOF, P.S.

  
James M. Kristof, WSBA #9317  
Attorney for Plaintiff

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		<b>INSTRUCTIONS:</b> Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency:  USPS TORT CLAIMS ATTN: SHEILA 34301 9TH AVE S -SUITE 243 FEDERAL WAY WA 98003-7094			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.  Progressive Casualty Insurance Company a/s/o BECKER, MARY PO BOX 512929 Los Angeles, CA 90057-0929		
3. TYPE OF EMPLOYMENT  <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN		4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT  01/29/2018                      Monday	
7. TIME (A.M. OR P.M.)  3:10 PM					
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).  Our named insured's 2015 Volkswagen Jetta was stopped for a school bus on Tyler St., when a USPS Postal Van was traveling on Tyler St. and struck and damaged our insured's vehicle from the rear. We are seeking reimbursement from the USPS for repairs done to our insured's vehicle as a result of this loss.					
9. <b>PROPERTY DAMAGE</b>					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).  BECKER, MARY PMB 6383 PO BOX 257 OLYMPIA, WA 98507					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).  15 VOLKSWAGEN JETTA - REAR					
10. <b>PERSONAL INJURY/WRONGFUL DEATH</b>					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.  N/A					
11. <b>WITNESSES</b>					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
n/a					
12. (See instructions on reverse). <b>AMOUNT OF CLAIM</b> (in dollars)					
12a. PROPERTY DAMAGE  1,868.66		12b. PERSONAL INJURY  2,238.20		12c. WRONGFUL DEATH  0.00	
				12d. TOTAL (Failure to specify may cause forfeiture of your rights).  4,106.86	
<b>I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</b>					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).			13b. PHONE NUMBER OF PERSON SIGNING FORM  440-910-5567		14. DATE OF SIGNATURE  06/26/2019
<b>CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM</b>  The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			<b>CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS</b>  Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		



## INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☒ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

Progressive Casualty Insurance Company Claim #18-2105734  
PO BOX 512929  
Los Angeles, CA 90057-0929

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☒ Yes ☐ No 17. If deductible, state amount.

YES, FULL COVERAGE WITH A DEDUCTIBLE

250.00

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

Progressive Casualty Insurance Company  
has made payment under their policy for repairs to their vehicle as a result of this loss.  
We are seeking reimbursement for those damages paid out under their policy.

19. Do you carry public liability and property damage insurance? ☒ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

Progressive Casualty Insurance Company  
PO BOX 512929  
Los Angeles, CA 90057-0929

## INSTRUCTIONS

**Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.**

**Complete all items - Insert the word NONE where applicable.**

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

**Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.**

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A **SUM CERTAIN** FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN **TWO YEARS** AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) **Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.**

## PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

- A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.  
C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.  
D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

## PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

PROGRESSIVE CLAIMS  
5920 LANDERBROOK DRIVE  
L33B  
MAYFIELD HEIGHTS, OH 44124

**PROGRESSIVE**

502654 28836 1 MB 0.428 CLTR501S 086 028836

**Underwritten By:**  
**Progressive Casualty Insurance**  
**Company**

Claim Number: 18-2105734  
Loss Date: January 29, 2018  
Document Date: May 7, 2019  
Page 1 of 1

MARY BECKER  
PMB 6383 PO BOX 257  
OLYMPIA, WA 98507



**claims.progressive.com**

Track the status and details of your claim,  
e-mail your representative or report a  
new claim.

## Request for Information

Please complete and return the enclosed form(s) in the envelope provided.

AUTHORIZATION FOR INSURANCE COMPANY TO INCLUDE DEDUCTIBLE IN SUBROGATION CLAIM

My name is Mary Becker and I carry automobile insurance with Progressive Casualty Insurance Company. My claim number is 18-2105734. As a result of an automobile collision on 1/29/18, I made a claim with Progressive Casualty Insurance Company under my collision coverage. That collision coverage carries a \$ 250.00 and my settlement with Progressive Casualty Insurance Company was reduced by that amount.

I hereby authorize Progressive Casualty Insurance Company to act on my behalf and include the \$ 250.00 in Progressive Casualty Insurance Company claim. I will be reimbursed by Progressive Casualty Insurance Company my \$,250.00 as soon as the company is paid.

SIGNED

Insured

Date

5/31/2019

If you have any questions, please contact us.

JASON SABA  
Claims Department  
1-800-776-4737  
Fax: 1-866-744-5516

Enclosure

Form Z575 XX (01/08) WA